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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,217	08/02/2006	Jurgen Tropsch	293775US0PCT	5753
22850 7590 12/28/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER POWERS, FIONA				
ART UNIT 1626		PAPER NUMBER		
NOTIFICATION DATE 12/28/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/588,217

Applicant(s)

TROPSCH ET AL.

Examiner

Fiona T. Powers

Art Unit

1626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 19-26 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 19-26 and 29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 11, 19 to 26 and 29 to 32 are pending in the application.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 5, 2009 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 19 to 26 and 29 to 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Verdicchio (US 4726915), of record.

Determination of the scope and content of the prior art (MPEP §2141.01)

The reference discloses structurally similar compounds that are useful for detergent and cleansing compositions such as shampoo. The compositions are useful in cleansing methods by contacting the substrate with the composition. The compounds of the reference are structurally similar to the claimed compounds of the general formula (I) wherein R is i-C₁₃ group; R¹ is methyl; M⁺ is an alkali metal or HNR₃²⁺; y is 1 or 2 and z is 4. Note column 2, lines 14 to 29 and in particular column 2, lines 49 to 56.

Ascertainment of the difference between the prior art and the claims (MPEP §2141.02)

The compounds of the reference differ from those claimed only in that the group that corresponds to R of the claimed compounds is an i-C₁₀ alkyl instead of i-C₁₃ alkyl group.

Finding of prima facie obviousness--rational and motivation (MPEP §2142-2413)

It has been held that it is obvious to substitute one alkyl group for another. Note In re Hoke, 195 USPQ 148, for example. One of ordinary skill in the art would have been motivated to make the claimed compounds with the expectation that additional compounds useful for detergent and cleansing compositions would

be obtained. The claimed alkyl ether sulfate salts would have been rendered obvious by the structurally similar compounds of the reference in the absence of any unobvious property. The claimed compositions and method would have also been rendered obvious in the absence of any unobvious property or result.

Response to Arguments

Applicant's arguments filed October 5, 2009 have been fully considered but they are not persuasive. Applicant states that the difference between Verdicchio et al. is that the present invention the alkylether sulfate salt is based on an i-C₁₃ group whereas Verdicchio et al disclose corresponding polyether sulfates which are based on linear or branched C₁₀ radical. Applicant states that this difference is not obvious to one of ordinary skill in the art; The use of an i-C₁₃ group instead of a linear or branched C₁₀ group gives rise to improved properties of the alkylether sulfate salts of general formula (I) of the instant invention which is shown by the examples which are presented on page 21 and 22 of the present specification.

On pages 7 and 8 of the Remarks filed October 5, 2009, applicants discuss the results shown in the table on page 21 of the specification. Examples 5 and 6 of the table correspond to the presently claimed compounds. The results shown in this

table are not persuasive of the patentability of the claimed compounds because the prior art compounds closest in structure to the claimed compounds have not been compared. **The compounds of Verdicchio discussed above in the rejection are closer in structure to Examples 5 and 6 of the table because they contain an iso group at the R position of the present invention similar to the iso group at the R position of the claimed compounds.**

In response to the examiner's statement in the Advisory Action dated September 21, 2009 that the isodecyl radical of Verdicchio et al. has a methyl group at the second carbon from the end of the chain, applicants state that this teaching cannot be found in Verdicchio et al. and that the reference only teaches that isodecyl radicals are used for the preparation of isodecyl-propoxy(1)-ethoxy(4) sodium sulfate etc. **However, Verdicchio et al. also teach isodecyl-propoxy(2)-ethoxy(4) sodium sulfate. See Example III and VI to IX in columns 5 and 6 of Verdicchio et al.** The isodecyl-propoxy(2)-ethoxy(4) sodium sulfate of Verdicchio et al. is closer in structure to Examples 5 and 6 of the table on page 21 of the specification than Examples 2 and 3 which applicants state correspond to the compounds of Verdicchio et al. since this compound contains an iso-decyl group at the position that corresponds to R of the

present invention similar to the $i\text{-C}_{13}$ group in the claimed compounds.

Applicants state that "Examples 2 and 3 of the table fall within the scope of an iso-decyl radical according to Verdicchio et al. 2-propyl-heptanol radicals have 10 carbon atoms and have a 1-propyl substituent in the 2-position. A 2-propyl-heptanol radical is one member of the family of iso-decyl radicals according to Verdicchio et al.". Applicants also state that "for one of ordinary skill in the art, the term "iso" means that a branched chain is present, in contrast to a linear carbon chain, which begins with "n-". **However, the acceptable definition for the prefix "iso" is that a methyl branch appears at the end of the alkyl side chain. See the definition of "iso-** " on page 96 of Organic Chemistry, 4th Edition, Ralph J. Fessenden and Joan S. Fessenden, Brooks Cole Publishing Company, 1990 (copy attached). Therefore, the 2-propyl-heptanol compounds of Examples 2 and 3 of the table on page 21 of the specification do not correspond to the compounds of Verdicchio et al. Thus applicants have not compared the compounds of Verdicchio et al. to the compounds of the present invention.

Since applicants have failed to compare the closest prior art compounds to the claimed invention the rejection over Verdicchio et al. is maintained.

Allowable Subject Matter

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fiona T. Powers whose telephone number is 571-272-0702. The examiner can normally be reached on Monday - Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fiona T. Powers/
Primary Examiner, Art Unit
1626

ftp
December 20, 2009